

UNITED STATES DISTRICT COURT

for

District of Guam

Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: Francis A. Aguon Case Number: CR 97-00074-001

Name of Sentencing Judicial Officer: John S. Unpingco

Date of Original Sentence: October 14, 1997

Original Offense: Possession with Intent to Distribute Methamphetamine Hydrochloride, in violation of Title 18, United States Code, Section 841(a)(1)

Original Sentence: 108 months imprisonment followed by a five year term of supervised release with conditions to include: participate in a drug treatment and testing; perform 400 hours of community service; obtain and maintain employment; and pay a \$100 special assessment fee. **Conditions modified on March 31, 2005** to include an additional 100 hours of community service under the direction of the U.S. Probation Office at a rate of eight hours weekly. **Revoked on July 20, 2005** and ordered to serve 11 months prison followed by 49 months supervised release with conditions that he: comply with mandatory and standard conditions; participate in drug treatment and testing; refrain from the use of alcohol and submit to testing; obtain and maintain gainful employment; cooperate in the collection of DNA as directed by the probation officer; not commit another federal, state or local crime; not unlawfully possess and refrain from use of a controlled substance; and submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the Court. **On September 29, 2006 conditions were modified** to include six days of intermittent confinement. **On September 4, 2007, supervised release was revoked** and he was sentenced to time served (approximately 7 months) followed by 42 months of supervised release with conditions to include: participate in the Salvation Army Lighthouse Recovery Center's (LRC) six month residential treatment program and obey all rules and regulations set forth by the program; upon completion of the LRC shall participate in substance abuse treatment and testing program approved by the U.S. Probation Office; refrain from the use of alcohol and submit to testing, all alcohol shall be removed from the defendant's residence; obtain and maintain employment; and upon completion of the Salvation Army Lighthouse Recovery Center's Residential Treatment Program, the defendant shall report to the U.S. Probation Office and provide documentation that he is actively seeking employment.

Type of Supervision: Supervised Release Date Supervision Commenced: September 4, 2007

Assistant U.S. Attorney: Karon Johnson Defense Attorney: Richard Arens

PETITIONING THE COURT

☒ To issue a warrant

☐ To issue a summons

The probation officer believes that the offender has violated the following condition(s) of supervision:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
1	Failure to participate in the Salvation Army Lighthouse Recovery Center's six month residential treatment program and obey all rules and regulations set forth by the program, in violation of 18 U.S.C. §3583(d).
2	Failure to submit to urinalysis, in violation of 18 U.S.C. §3583(d).
3	Use of a controlled substance, in violation of 18 U.S.C. §3583(d).

U.S. Probation Officer Recommendation:

- ☒ The term of supervision should be
- ☒ revoked.
- ☐ extended for _____ years, for a total term of _____ years.
- ☐ The conditions of supervision should be modified as follows:

***Please see attached Declaration in Support of Petition;
Re: Violations of Supervised Release Conditions, Warrant of Arrest Requested
written by U.S. Probation Officer Grace D. Flores.***

Reviewed by:

I declare under penalty of perjury that the foregoing is true and correct.



/s/ CARMEN D. O'MALLAN
U.S. Probation Officer Specialist
Supervision Unit Leader



/s/ GRACE D. FLORES
U.S. Probation Officer

Date: February 5, 2008

Executed on: February 5, 2008

THE COURT ORDERS:

- ☐ No action.
- ☐ The issuance of a warrant.
- ☐ The issuance of a summons.
- ☐ Other

VIOLATION WORKSHEET

1. Defendant Francis A. Aguon

2. Docket Number (Year-Sequence-Defendant No.) CR 97-00074-001

3. District/Office 0993/1

4. Original Sentence Date 10 / 14 / 1997
month day year

(If different than above):

5. Original District/Office _____

6. Original Docket Number (Year-Sequence-Defendant No.) _____

7. List each violation and determine the applicable grade (see §7B1.1(b))

<u>Violation(s)</u>	<u>Grade</u>
• Failure to participate in the Salvation Army Lighthouse Recovery Center's six month residential treatment program and obey all rules and regulations set forth by the program.	C
• Failure to submit to urinalysis.	C
• Use of a controlled substance.	C
• _____	_____
• _____	_____

8. Most Serious Grade of Violation (see §7B1.1(b)) C

9. Criminal History Category (see §7B1.4(a)) III

10. Range of Imprisonment (see §7B1.4(a)) 5-11 months

11. Sentencing Options for Grade B and C Violations Only (Check the appropriate box):

☒

(a) If the minimum term of imprisonment determined under §7B1.4 (Term of Imprisonment) is at least one month but not more than six months, §7B1.3(c)(1) provides sentencing options to imprisonment.

☐

(b) If the minimum term of imprisonment determined under §7B1.4 (Term of Imprisonment) is more than six months but not more than ten months, §7B1.3(c)(2) provides sentencing options to imprisonment.

☐

(c) If the minimum term of imprisonment determined under §7B1.4 (Term of Imprisonment) is more than ten months, no sentencing options to imprisonment are available.

Mail documents to: United States Sentencing Commission, Federal Judiciary Building, One Columbus Circle, NE, Suite 2-500, South Lobby, Washington, D.C. 20002-8002.

Defendant: Francis A. Aguon

12. **Unsatisfied Conditions of Original Sentence**

List any restitution, fine, community confinement, home detention, or intermittent confinement previously imposed in connection with the sentence for which revocation is ordered that remains unpaid or unserved at the time of revocation (see §7B1.3(d)):

Restitution (\$)	<u>N/A</u>	Community Confinement	<u>N/A</u>
Fine (\$)	<u>N/A</u>	Home Detention	<u>N/A</u>
Other	<u>N/A</u>	Intermittent Confinement	<u>N/A</u>

13. **Supervised Release**

If probation is to be revoked, determine the length, if any, of the term of supervised release according to the provisions of §§5D1.1-1.3 (see §§7B1.3(g)(1)).

Term: to years.

If supervised release is revoked and the term of imprisonment imposed is less than the maximum term of imprisonment imposable upon revocation, the defendant may, to the extent permitted by law, be ordered to recommence supervised release upon release from imprisonment (see 18 U.S.C. §3583(e) and §7B1.3(g)(2)).

Period of supervised release to be served following release from imprisonment: 31-37 months

14. **Departure**

List aggravating and mitigating factors that may warrant a sentence outside the applicable range of imprisonment:

None.

15. **Official Detention Adjustment** (see §7B1.3(e)): 0 months 0 days

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF GUAM**

UNITED STATES OF AMERICA,)	CRIMINAL CASE NO. 97-00074-001
)	
Plaintiff,)	
)	DECLARATION IN SUPPORT OF PETITION
vs.)	
)	
FRANCIS A. AGUON,)	
)	
Defendant.)	
_____)	

Re: Violations of Supervised Release Conditions, Warrant of Arrest Requested

I, U.S. Probation Officer Grace D. Flores, am the U.S. Probation Officer assigned to supervise the Court-ordered conditions of supervised release for Francis A. Aguon, and in that capacity declare as follows:

On October 14, 1997, Francis Aguon was sentenced to 108 months imprisonment and five years supervised release for the offense of Possession with Intent to Distribute Methamphetamine Hydrochloride, in violation of 21 U.S.C. § 841(a)(1). On July 20, 2005, Mr. Aguon's term of supervised release was revoked, and he was sentenced to 11 months imprisonment followed by 49 months of supervised release. On September 4, 2007, Mr. Aguon's term of supervised release was revoked and he was sentenced to time served, approximately seven months, followed by a 42 month term of supervised release. His term of supervised release began on September 4, 2007. Mr. Aguon is alleged to have committed the following in violation of 18 U.S.C. §3583(d):

Violation 1, Special Condition: *The defendant shall participate in the Salvation Army Lighthouse Recovery Center's six month residential treatment program and obey all rules and regulations set forth by the program.*

DECLARATION IN SUPPORT OF PETITION

Violations of Supervised Release Conditions, Warrant of Arrest Requested

Re: AGUON, Francis A.

Criminal Case No. 97-00074-001

February 5, 2008

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On February 4, 2008, Ms. Leinani Naholowa'a, a counselor at Salvation Army Lighthouse Recovery Center provided the following information:

On February 2, 2008, Mr. Aguon returned to the Lighthouse Recover Center (LRC) facility shortly before lights out at 10:30 p.m. Residential staff on duty informed Mr. Aguon that a urinalysis would need to be submitted as he was scheduled for a drug test on that date. Mr. Aguon refused. Residential staff then contacted his counselor, Ms. Naholowa'a and attempted to have Mr. Aguon speak with her. Mr. Aguon refused to speak with her. Mr. Aguon then packed his belongings and left the LRC at approximately 10:48 p.m.

Mr. Aguon is employed with Able Pacific Industries as a driver. However, his employer indicated that he has not been to work for two days. He also stated that Mr. Aguon is on probation and if he continues not show for work, it will be determined that he abandoned his position and appropriate action will be taken.

Violation 2, Special Condition: *The defendant shall not use or possess illegal controlled substances and shall submit to one urinalysis test within 15 days of release from custody and up to eight drug tests a month under the direction of the U.S. Probation Office.*

Upon entry into the Salvation Army Lighthouse Recovery Center treatment program, Mr. Aguon was informed that drug testing would be conducted by the program. As noted above, Mr. Aguon refused to submit to urinalysis on February 2, 2008.

Violation 3, Mandatory Condition: *The defendant shall refrain from any unlawful use of a controlled substance.*

On February 4, 2008, during a telephonic conversation with Mr. Aguon and this Officer, he stated that he "messed up" and admitted to using "ice" on "Friday, Saturday and Sunday" referencing February 1, 2, and 3, 2008.

Supervision compliance: On July 12, 1999, Mr. Aguon satisfied his \$100 special assessment fee. He cooperated with the collection of DNA on May 4, 2006, and served the six days of intermittent confinement on October 29, 30, and 31, 2006; and November 4, 5, and 6, 2006.

DECLARATION IN SUPPORT OF PETITION

Violations of Supervised Release Conditions, Warrant of Arrest Requested

Re: AGUON, Francis A.

Criminal Case No. 97-00074-001

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Recommendation: This Probation Officer respectfully requests that the Court issue a Warrant of Arrest for Francis Aguon to appear at a hearing scheduled by the Court, and during that hearing, he be held to answer or show cause why his term of supervised release should not be modified or revoked pursuant to 18 U.S.C. § 3583.

Executed this 5th day of February 2008, at Hagatna, Guam, in conformance with the provisions of 28 U.S.C. § 1746.

I declare, under penalty of perjury, that the foregoing is true and correct, except those matters stated upon information and belief, and as to those matters, I believe them to be true.

Respectfully submitted,

ROSSANNA VILLAGOMEZ-AGUON
Chief U.S. Probation Officer

By:



/s/ GRACE D. FLORES
U.S. Probation Officer

Reviewed by:



/s/ CARMEN D. O'MALLAN
U.S. Probation Officer Specialist
Supervision Unit Leader

cc: Karon Johnson, AUSA
Richard P. Arens, AFD
File